

MARGARET J. WILSON

IBLA 80-239

Decided August 12, 1980

Appeal from decision of the Idaho State Office, Bureau of Land Management, declaring the Black Bear Association mining claim null and void. I MC 35133.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Assessment Work – Mining Claims: Abandonment – Mining Claims: Assessment Work

Where the owner of an unpatented mining claim located prior to Oct. 21, 1976, fails to file an affidavit of assessment work or notice of intention to hold the claim on or before Oct. 22, 1979, the claim is properly deemed conclusively to have been abandoned.

2. Notice: Generally – Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of duly promulgated regulations.

APPEARANCES: Margaret J. Wilson, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Margaret J. Wilson has appealed from a decision, dated December 4, 1979, of the Idaho State Office, Bureau of Land Management (BLM), refusing recordation of the Black Bear Association mining claim, I MC 35133. The State Office decision was based on the failure to file an affidavit of assessment work or a notice of intention to hold the claim as required by the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976). The pertinent regulation is 43 CFR 3833.2-1(a), which states:

The owner of an unpatented mining claim located on Federal lands on or before October 21, 1976, shall file in the proper BLM office on or before October 22, 1979, \* \* \*

evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim.

The mining claim was located on November 17, 1962. A copy of the location notice was filed with the State Office October 17, 1979. Therefore, the affidavit of assessment work was due on or before October 22, 1979. The affidavit was received by BLM on December 31, 1979.

[1] Section 314(a)(1) and (2) of FLPMA, and the pertinent regulation 43 CFR 3833.2-1(a), mandate the consequences of failure to timely file required instruments. This Board has repeatedly held that when the recordation requirements are not met the mining claims must be deemed abandoned and void. Charles and Pete Caress, 41 IBLA 302 (1979); Nuclear Power and Energy Co., 41 IBLA 142 (1979); Al Sherman, 38 IBLA 300 (1978); Ronald L. Nordwick, 36 IBLA 238 (1978); Paul S. Coupey, 35 IBLA 112 (1978). This Board has no authority to waive the statutory and regulatory requirements.

[2] Appellant states in her statement of reasons "[t]hat the paper I was given at the Clearwater County Auditor's office did not state that proof of labor had to accompany all the items that had to be filed with your office." (Emphasis in original.) All persons dealing with the Government, however, are presumed to have knowledge of relevant statutes and duly promulgated regulations. 44 U.S.C. §§ 1507, 1510 (1970); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978).

We note in closing that appellant may relocate this claim, if for locatable minerals, and file notice of this as provided in 43 CFR 3833.1, subject to any intervening rights of third parties, and assuming no intervening closure of the land to mining location.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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James L. Burski  
Administrative Judge

We concur:

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Douglas E. Henriques  
Administrative Judge

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Joan B. Thompson  
Administrative Judge

